

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

JEFFREY ENLOW

Claimant

VS.

UNITED PARCEL SERVICES

Respondent

AND

LIBERTY MUTUAL INSURANCE COMPANY

Insurance Carrier

Docket No. 248,995

ORDER

The respondent appealed Administrative Law Judge John D. Clark's January 5, 2000, preliminary hearing Order.

ISSUES

The Administrative Law Judge granted claimant's request for temporary total disability benefits.

The sole issue the respondent raises on appeal is whether the Administrative Law Judge exceeded his jurisdiction in ordering respondent to pay claimant temporary total disability benefits.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the preliminary hearing record and considering the briefs of the parties, the Appeals Board makes the following findings and conclusions:

Claimant injured his right shoulder at work on October 1, 1999. Respondent voluntarily provided medical treatment for the injury, and the claimant returned to work. On October 18, 1999, respondent could not accommodate claimant's restrictions, and claimant was taken off work. Claimant remained off work until respondent returned him to work on December 21, 1999.

On appeal, the respondent contends the Administrative Law Judge exceeded his jurisdiction in ordering the respondent to pay claimant temporary total disability benefits from October 19, 1999, through December 20, 1999. The Appeals Board concludes the respondent's appeal should be dismissed because the Appeals Board lacks jurisdiction to review this preliminary hearing issue.

The preliminary hearing statute specifically gives the Administrative Law Judge authority to grant or deny a request for temporary total disability compensation.¹ The Appeals Board finds, as it has on many other occasions, that the Administrative Law Judge did not exceed his authority in granting claimant's request for temporary total disability benefits.² Also, the Appeals Board finds that respondent's contention does not raise one of the jurisdictional issues listed in the preliminary hearing statute.³ Thus, the Appeals Board finds, at this juncture of the proceedings, it does not have jurisdiction to review the preliminary hearing issue raised by the respondent.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that respondent's appeal of Administrative Law Judge John D. Clark's January 5, 2000, preliminary hearing Order should be, and the same is hereby, dismissed.

IT IS SO ORDERED.

Dated this ____ day of February 2000.

BOARD MEMBER

c: W. Walter Craig, Wichita, KS
Eric T. Lanham, Kansas City, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director

¹See K.S.A. 1999 Supp. 44-534a.

²See Stout v. Hayloft Property Management, Inc., WCAB Docket No. 245,282 (November 1999).

³See K.S.A. 1999 Supp. 44-534a.